

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

**HAYWARD SISTERS HOSPITAL
D/B/A ST. ROSE HOSPITAL**

and

JERNETTA BACKUS, an Individual

Case No.: 32-CA-218138

**Consolidated with
Case Nos. 32-CA-197728,
197958, and 203396**

MOTION TO RESCHEDULE HEARING

COMES NOW Respondent Hayward Sisters Hospital, a California nonprofit corporation doing business as St. Rose Hospital, and pursuant to Section 102.24 of the NLRB's Rules and Regulations, through counsel, files this motion to reschedule the hearing date in the captioned matter.

1. On April 27, 2018, the Regional Director for the National Labor Relations Board for Region 32 issued a Complaint and Notice of Hearing in Case No. 32-CA-218138 (the "Complaint"). In that pleading, the Regional Director set a hearing to commence on May 10, 2018 and to continue on consecutive days until concluded.

2. 29 CFR § 102.15 (Rule 102.15) provides that a hearing must be set "not less than 14 days **after** service of the complaint." (Emphasis Added).

3. 29 CFR 102.2(a) (Rule 102.2(a)) provides that "[i]n computing any period of time prescribed or allowed by these Rules, the day of the act, event, or default after which the designated period of time begins to run is **not to be included**." (Emphasis Added).

4. The Complaint was served on April 27, 2018. Based on a service date of April 27, 2018, the 14th day after service of the complaint is May 11, 2018. This date was calculated in accordance with Rule 102.2(a) as follows: 4/28 – 1st Day; 4/29 – 2nd Day; 4/30 – 3rd Day; 5/1 – 4th Day; 5/2 – 5th Day; 5/3 – 6th Day; 5/4 – 7th Day; 5/5 – 8th Day; 5/6 – 9th Day; 5/7 – 10th Day; 5/8 – 11th Day; 5/9 – 12th Day; 5/10 – 13th Day; and 5/11 – 14th Day.

5. Pursuant to Rule 102.15 and Rule 102.2(a), the earliest date the hearing on the Complaint can commence is May 11, 2018, the 14th day after service of the Complaint.

6. The Regional Director has set a hearing on the Complaint to commence on May 10, 2018, the 13th day after service of the Complaint. This constitutes a violation of Rule 102.15 and the hearing must be rescheduled.

7. Since Case No. 32-CA-218138 will be consolidated with Case Nos. 32-CA-197728, 197958, and 203396 in accordance with the April 24, 2018 Order in Case Nos. 32-CA-197728, 197958, and 203396, due process dictates that the General Counsel must complete its case-in-chief in Case Nos. 32-CA-197728, 197958, 203396 **and** 32-CA-218318 before Respondent is required to commence its defense in Case Nos. 32-CA-197728, 197958, 203396 **and** 32-CA-218318. During the April 26, 2018 Status Conference in Case Nos. 32-CA-197728, 197958, and 203396, Respondent's counsel advised the Administrative Law Judge and Counsel for the General Counsel that Respondent will not waive its due process rights and will require the General Counsel to present its case-in-chief in Case Nos. 32-CA-197728, 197958, 203396 **and** 32-CA-218318 before commencing its defense. Since the hearing in Case No. 32-CA-218318 cannot commence until May 11, 2018, the earliest Respondent may be required to commence its defense is May 11, 2018.

8. On April 30, 2018, Counsel for Respondent wrote to Counsel for the General Counsel and the Charging Party to inquire as to their position on rescheduling the hearing in Case No. 32-CA-218138 to May 11, 2018 or a date thereafter. Counsel for the General Counsel responded by way of e-mail on April 30, 2018 and indicated that "Thank you for your letter. Procedurally, you need to make a Motion to the ALJ to reschedule the hearing. However, you can state in your motion that the GC does not oppose resuming the hearing on May 11 or May 14 and continuing on consecutive days thereafter until the completion of the hearing." Counsel for the General Counsel has also indicated that Counsel for the General Counsel, Babita Roop, a Charging Party in Case Nos. 32-CA-197728, 197958, and 203396, and Jernetta Backus, a Charging Party in Case Nos. 32-CA-197728, 197958, and 203396 and the Charging Party in Case No. 32-CA-281318, are available to resume the hearing on May 11, May 14, or May 21, 2018. Counsel for Respondent has not received a response directly from Charging Party Jernetta Backus but assumes Ms. Backus' position is consistent with that of Counsel for the General Counsel.

9. Counsel for Respondent is not available to resume the hearing on May 14, 2018 because Michael Sarrao is required to attend a mediation with the Pension Benefit Guaranty Corporation on May 15 and 16, 2018 and the mediation cannot be rescheduled. Counsel for Respondent is available to resume the hearing on May 21, 2018.

10. Based on discussions during the April 26, 2018 Status Conference, Counsel for Respondent understands that the Administrative Law Judge has another hearing scheduled to commence during the week of May 14, 2018.

For the reasons set forth above, Respondent Hayward Sisters Hospital avers that the hearing on the Complaint should be rescheduled to commence on May 21, 2018.

Respectfully submitted this 1st day of May 2018.



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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May 2018, the foregoing was electronically filed with Region 32 using the National Labor Relations Board's electronic filing system and was served upon the following by electronic mail:

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